

# **Exhibit 13**

Eric C. Wilhelmsen

December 18, 2003

Reston, VA

Page 1

ORIGINAL

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF OHIO

3 Western Division (Dayton)

4 - - - - - x Civil Action

5 THE PROCTOR & GAMBLE COMPANY, : No.: C-1-02-393

6 Plaintiff, : Hon. Walter Herbert

7 vs. : Rice (C.J.)

8 THE COCA-COLA COMPANY, : Hon. Sharon Ovington

9 Defendant. : (Magistrate)

10 - - - - - x

11 Reston, Virginia

12 Thursday, December 18, 2003

13 Videotaped Deposition of ERIC C.

14 WILHELMSSEN, PH.D., a witness herein, called for  
15 examination by counsel for Plaintiff in the  
16 above-entitled matter, pursuant to notice, the  
17 witness being duly sworn by KAREN YOUNG, a Notary  
18 Public in and for the Commonwealth of Virginia,  
19 taken at the offices of Hale and Dorr, 11951 Freedom  
20 Drive, Suite 1400, Reston, Virginia, at 9:00 a.m. on  
Thursday, December 18, 2003, and the proceedings  
being taken down by Stenotype by KAREN YOUNG, and  
21 transcribed under her direction.  
22

Eric C. Wilhelmsen

December 18, 2003

Reston, VA

Page 181

1 A. Yes.

2 Q. When were you told that that was going to  
3 be the construction that Coca-Cola was going to  
4 seek?

5 A. I don't know the chronology of the  
6 details.

7 Q. Were you told that before you formed your  
8 opinion?

9 A. No.

10 Q. Who told you?

11 A. Who informed me that this was their  
12 position?

13 Q. Yes.

14 A. One of the attorneys. I don't remember  
15 which one.

16 Q. You understand, do you not, that under the  
17 construction that Coca-Cola is seeking, that  
18 according to Coke, it would not infringe the 847  
19 patent, right?

20 A. Yes.

21 Q. You also understand, do you not, that if  
22 the 847 patent does not require the addition of

Eric C. Wilhelmsen

December 18, 2003

Reston, VA

Page 182

1 citric and malic acid, it would -- Coke would  
2 infringe the 847 patent?

3 MR. IVEY: Objection.

4 A. Assuming the patent is valid, yes.

5 Q. Well, Doctor, your opinions about the  
6 invalidity of the 847 patent are premised on the  
7 assumption that Proctor & Gamble's construction is  
8 adopted, right?

9 A. Not completely.

10 Q. Okay. Remind me again about the exception  
11 to that. You said it was in something section K of  
12 your report?

13 A. Yes, section K of my report.

14 Q. Which relates to the -- your opinion about  
15 the misleading representations made to the patent  
16 office?

17 A. No, this is obviousness over Kawai.

18 Q. Obviousness over -- could you just repeat  
19 it?

20 A. Obviousness over Kawai. That's not  
21 section K. I've got the wrong number.

22 Q. That's what I was confused about.